

ARTICLE 10-10

TRANSIENT MERCHANTS

CHAPTER
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SECTION
10-10-01-01 Transient Merchants to Appoint Resident Agent
10-10-01-02 Who May be Appointed as Agent
10-10-01-03 Exceptions to the Appointment of Resident Agent
10-10-01-04 Warranty Requirements Upon Application for License
10-10-01-05 Sales Tax Permit Required

10-10-01-01. TRANSIENT MERCHANTS TO APPOINT RESIDENT AGENT.

Any transient merchant required to be licensed pursuant to Chapter 51-04 of the North Dakota Century Code shall be required to appoint a resident agent in this state pursuant to the provisions of Section 51-04-07 of the North Dakota Century Code.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 51-04-07

10-10-01-02. WHO MAY BE APPOINTED AS AGENT. Agents appointed pursuant to the provisions of Section 51-04-07 of the North Dakota Century Code must be individual residents of North Dakota, or corporations, partnerships, or other business entities with their principle offices or place of business located within North Dakota.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 51-04-07

10-10-01-03. EXCEPTIONS TO THE APPOINTMENT OF RESIDENT AGENT.

Notwithstanding the provisions of Section 10-10-01-01, the following categories of transient merchants shall not be required to appoint a resident agent in this state:

1. Any transient merchant selling merchandise only in flea markets, craft fairs, fairs, carnivals, circuses, or similar activities regulated by city or county governments, fair associations, other political subdivisions of the state, or local trade organizations.
2. Any transient merchant who has been previously licensed by this state, who has been doing business as a licensed transient merchant in North Dakota for a period of time of at least one (1) year, immediately preceding the application pursuant to Chapter 51-04 of the North Dakota Century Code, and who has not been the subject of any of the following:
 - a. Suspension or revocation of the transient merchants license at any time during the sixty month period immediately preceding the filing of the current transient merchant license application.
 - b. An administrative or judicial proceeding or civil or criminal suit whereby the transient merchant was found guilty, pleaded guilty or failed to appear in regard to violations of the provisions of Chapters

51-04, 51-12, or 51-15 of the North Dakota Century Code.

c. An administrative or judicial proceeding or civil or criminal suit whereby the transient merchant was adjudicated negligent or was determined to have violated the provisions of Chapters 51-04, 51-12, or 51-15 of the North Dakota Century Code.

3. Any transient merchant selling merchandise in specific locations on a temporary basis for fourteen (14) or more consecutive business days at each location.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 51-04-07

10-10-01-04. WARRANTY REQUIREMENTS UPON APPLICATION FOR LICENSE.

1. In addition to the application requirements of Section 51-04-02 of the North Dakota Century Code, any transient merchant required to be licensed pursuant to Chapter 51-04 of the North Dakota Century Code, shall specify which, if any, of the merchandise offered for sale by the transient merchant is the subject of a warranty provision, what type of warranty is offered for each item of merchandise, whether the warranty period still applies to the merchandise offered, and the name, address, and telephone number of the person or business that will provide service for the merchandise pursuant to the warranty.

2. Any transient merchant who does not provide the warranty information required by subsection 1 shall appoint a resident agent in the state as required by Section 10-10-01-01 of the North Dakota Administrative Code, notwithstanding the exception provisions of Section 10-10-01-03 of the North Dakota Administrative Code. If the merchandise offered for sale is not the subject of a warranty provision, this subsection shall not require the appointment of a resident agent in this state.
3. Any transient merchant who does not provide the warranty information required by subsection 1 shall not state, claim, or advertise that the merchandise offered for sale by the transient merchant is subject to any warranty.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 51-04-02
and 51-04-07

10-10-32-02. SALES TAX PERMIT REQUIRED.

In addition to the application requirements of Section 51-04-02 of the North Dakota Century Code, any transient merchant required to be licensed pursuant to Chapter 51-04 of the North Dakota Century Code, shall obtain the required North Dakota Sales Tax permit, a copy of which shall be filed with the attorney general as part of the application for license.

General Authority
NDCC 28-32-02

Law Implemented
NDCC 51-04-02

